

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

NOTICE OF MARKET-DOMINANT  
PRICE ADJUSTMENT

Docket No. R2013-1

NOTICE OF THE UNITED STATES POSTAL SERVICE  
OF FILING OF USPS-LR-R2013-1/NP1  
(October 11, 2012)

The Postal Service hereby gives notice of filing of the material indicated below in the **Non-Public Annex** in this proceeding:

**USPS-LR-R2013-1/NP1**

**FIRST-CLASS MAIL INTERNATIONAL  
CAP COMPLIANCE (NONPUBLIC)**

This material contains the workpapers that estimate the revenues for First-Class Mail International resulting from the price change for purposes of the cap calculation of the First-Class Mail class. The materials include commercially sensitive information, such as outbound and inbound country-specific volume and revenue data, certain non-published rates, and underlying calculations related to price adjustments. The files associated with these calculations are accordingly submitted in the nonpublic annex in this proceeding. The Postal Service incorporates by reference the application for non-public treatment, which is included as Attachment 1 with this filing.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorney:

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## ATTACHMENT 1

### APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials covered by this application consist of the contents of Library Reference, USPS-LR-R2013-1/NP1, which includes two Excel files pertaining to First-Class Mail International.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

**(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

The materials designated as non-public consist of information of a commercial nature that under good business practice would not be publicly disclosed. Based on its long-standing and deep familiarity with postal and communications business and markets generally, and its knowledge of many firms, including competitors, mailers, and suppliers, the Postal Service does not believe that any commercial enterprise would voluntarily publish information pertaining to country-specific volume and revenue data, non-published rates underlying calculations related to price adjustments, or inbound market dominant contracts for which rates are negotiated with other postal operators. Thus, in the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).<sup>1</sup>

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<sup>1</sup> In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government

Because the portions of the materials that the Postal Service is filing under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

**(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

The Postal Service believes that the third parties that have a proprietary interest in the materials submitted are postal operators whose governments are members of the UPU. Because a great deal of sensitive information involves the exchange of mail with Canada Post, the Postal Service will undertake to inform Canada Post Corporation (Canada Post), in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service identifies Dave Eagles, Director, International Relations, Canada Post Corporation, as the appropriate contact on behalf of Canada Post. Mr. Eagles's telephone number is (613) 734-6043, and his email address is dave.eagles@canadapost.ca. Canada Post has requested that any communications regarding confidential treatment of these materials be sent with a courtesy copy to Dennis Jarvis, General Manager, International Product Management, Canada Post Corporation. Mr. Jarvis's telephone number is (613) 734-8149, and his email address is

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establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

dennis.jarvis@canadapost.ca.<sup>2</sup> Additionally, the Postal Service identifies Guadalupe Contreras, Business Systems Manager, Global Business, as an appropriate point of contact for any notices to Correos de México. Ms. Contreras's phone number is (202) 268-4598, and her email address is guadalupe.n.contreras@usps.gov.

Due to language and cultural differences as well as the sensitive nature of the Postal Service's rate relationship with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to all other relevant postal operators.<sup>3</sup> The Postal Service identifies as an appropriate contact person, on behalf of relevant postal operators, Lea Emerson, Executive Director, International Postal Affairs. Ms. Lea's phone number is (202) 268-2574, and her email address is lea.emerson@usps.gov. In view of the language and practical difficulties, the Postal Service has not undertaken to inform all affected postal operators about the nature and scope of this filing and about the ability to address any confidentiality concerns directly with the Commission as provided in 39 C.F.R. § 3007.20(b), other than Canada Post Corporation. To the extent that the Postal Service's filing in the absence of actual notice might be construed as beyond the scope

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<sup>2</sup> In the event of a request for early termination of non-public treatment under 39 C.F.R. § 3007.31, a preliminary determination of non-public status under 39 C.F.R. § 3007.32, or a request for access to non-public materials under 39 C.F.R. § 3007.40, the Postal Service notes, on Canada Post's behalf, that differences in the official observation of national holidays might adversely and unduly affect Canada Post's ability to avail itself of the times allowed for response under the Commission's rules. In such cases, Canada Post has requested that the Postal Service convey its preemptive request that the Commission account for such holidays when accepting submissions on matters that affect Canada Post's interests. A listing of Canada's official holidays can be found at <http://www.pch.gc.ca/pgm/ceem-cced/jfa-ha/index-eng.cfm>.

<sup>3</sup> The Postal Service acknowledges that 39 C.F.R. § 3007.21(c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's response might be construed as beyond the scope of this exception, the Postal Service respectfully requests a waiver that would allow it to designate a Postal Service employee as the contact person under these circumstances, in light of the practical considerations outlined herein.

of the Commission's rules, the Postal Service respectfully requests a waiver that would allow it to forgo providing a notice to each postal operator. It is impractical to communicate with dozens of operators in multiple languages about this matter.

**(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

In connection with its Notice filed in this docket, the Postal Service included Excel files, which include data underlying the proposed price changes for First-Class Mail International. These materials were filed under seal. The Postal Service maintains that the files should remain confidential.

The files protect commercially sensitive information such as country-specific inbound letter post and outbound First-Class Mail International revenue, volume and weight data and certain non-published rate information used to determine pricing.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the data that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Information about any non-published pricing is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use the information to assess the rates charged by the Postal Service to foreign postal operators for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service.

The data also include specific information, such as country-specific letter post and First-Class Mail International revenue, volume and weight data and non-published rate information used to determine pricing. This information is confidential in the business world. Foreign postal operators or other potential customers could use this information to their advantage in negotiating the terms of their own agreements with the Postal Service, for example by assessing the relative weight of their flows to or from the United States. Given that these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

Inbound volume and/or weight information included in the inbound Excel file also consists of sensitive commercial information of foreign postal operators. Disclosure of such information could be used by competitors of a postal operator to assess the operators' underlying market size and its costs, and thereby develop a benchmark for the development of a competitive alternative.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

Harm: Public disclosure of information in USPS-LR-R2013-1/NP1 would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: Foreign postal operators see the information on the Commission's website. The operators could then use this information to their advantage in negotiating the terms of their own agreements with the Postal Service. Alternatively, a competing alternate delivery service obtains a copy of the Excel files from the Postal Regulatory Commission's website. It analyzes the data and then uses this information to set its prices for portions of the letter post market subject to competition.

Harm: Public disclosure of information in USPS-LR-R2013-1/NP1 would be used by a foreign postal operator's competitors to its detriment.

Hypothetical: A competing international delivery service obtains a copy of the inbound letter post Excel file from the Postal Regulatory Commission's website. The competitor analyzes the data to assess a foreign postal operator's underlying costs and volumes for the corresponding products. The competitor uses that information to assess the market potential and negotiate with U.S. customs brokers and freight companies to develop lower-cost alternatives.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international delivery products (including both private sector integrators and foreign postal operators), as well as their consultants and attorneys. Additionally, the Postal Service believes that foreign postal operators, as well as actual or potential customers of a postal operator for this or similar products should not be provided access to the non-public Excel worksheets.

**(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and**

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.



**(8) Any other factors or reasons relevant to support the application.**

Certain UPU letter post rates are not available publicly. Rather, they are circulated to postal operators and government ministries through UPU International Bureau circulars and accessible on a password-protected website. Hence, they are considered by the Postal Service to be commercially sensitive.

**Conclusion**

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.